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8                   UNITED STATES DISTRICT COURT  
9                   SOUTHERN DISTRICT OF CALIFORNIA  
10                  (HONORABLE PETER C. LEWIS)

11                  UNITED STATES OF AMERICA,

12                  Plaintiff,

13                  vs.

14                  Alejandro FERNANDEZ-Rito

15                  Defendant(s)

16                  Criminal Case No. 08cr4206-DMS (PCL)

17                  ORDER FOR VIDEO DEPOSITION OF  
18                  MATERIAL WITNESSES RITA  
19                  VAZQUEZ-ROSALES AND PEDRO  
20                  VALDENEGRO-GUICHO

21                  Upon motion of Attorney Ray Keramati representing the material witnesses mentioned  
22 herein, and good cause appearing:

23                  1. The material witnesses, **RITA VAZQUEZ-ROSALES AND PEDRO VALDENEGRO-**  
24 **GUICHO** held in custody in case number **08cr4206** shall be deposed no later than January 8, 2008  
25 at 10:00 in the U.S. Attorney's Office in San Diego, California.

26                  3. All parties shall attend the deposition. The arresting agency shall bring the material  
27 witnesses to the deposition. If the defendant in this case is in custody, that defendant shall be brought  
separately to the deposition and a Marshall shall remain present during the entire proceeding.

28                  4. Defendant's request for discovery shall be granted.

1           5. The United States Attorney's Office shall provide a videotape and audio-tape operator and  
 2 arrange for a court-certified interpreter to be present for the material witness, if necessary.

3           6. The cost of the interpreter for the material witness will be borne by the court.

4           7. If a defendant needs an interpreter independent of the material witnesses' interpreter (if  
 5 any), defense counsel will arrange for a court-certified interpreter to be present. The cost of a  
 6 separate interpreter for the defendant shall be paid by the court.

7           8. A notary is to preside at the depositions in accordance with Rule 28(a), Fed.R.Civ.P. The  
 8 parties may, by written stipulation, agree to the selection of any state certified notary. In the absence  
 9 of a written stipulation, the U.S. Attorney's Office shall provide and pay for a notary as set forth in  
 10 Fed. R. Civ. P. 28(c).

11          9. The deposition shall be videotape and audio-tape recorded. Prior to the conclusion of a  
 12 deposition, the deponent, or a party, may, for good faith reasons, elect to have the deponent review  
 13 the videotaped record of his deposition so as to check the recording for errors or omissions and to  
 14 note any changes. Any errors or changes, and the reasons for making them, shall be stated in writing  
 15 and such writing shall be signed by the deponent.

16          10. The videotape and audio-tape operator shall select and supply all equipment required to  
 17 videotape and audiotape the deposition and shall determine all matters of staging and technique,  
 18 such as number and placement of cameras and microphones, lighting, camera angle, and  
 19 background. He/she shall determine these matters in a manner that accurately reproduces the  
 20 appearance of the witnesses and assures clear reproduction of both the witnesses' testimony and the  
 21 statements of counsel. The witnesses, or any party to the action, may place upon the record any  
 22 objection to the videotape operator's handling of any of these matters. Such objections shall be  
 23 considered by the Court in ruling on the admissibility of the video record. All such objections shall  
 24 be deemed waived unless made promptly after the objector knows, or has reasonable grounds to  
 25 know, of the basis of such objection.

26          11. The deposition shall be recorded in a fair, impartial, objective manner. The videotape  
 27 equipment shall be focused on the witness; however, the videotape operator may from time to time  
 28 focus upon charts, photographs, exhibits or like material being shown to the witness during the

1 deposition.

2       12. Before examination of a witness, the material witnesses' attorney shall state on the video  
 3 record his name; the date, time and place of the deposition; the name of the witness and the caption  
 4 of the action; the identity of the parties and the names of all persons present in the deposition room.  
 5 A notary shall then swear the witness on the video record. Further, at the beginning of the  
 6 examination by each counsel, the counsel shall identify himself or herself and his or her respective  
 7 client on the record.

8       13. The videotape and audio-tape operator shall not stop the video or audio-tape recorder  
 9 after the deposition commences until it concludes, except, however, that any party may request a  
 10 cessation for a brief recess, which request will be honored unless another party objects and states the  
 11 basis for said objections on the record. Each time the tape is stopped or started, the operator shall  
 12 announce the time on the record. If the deposition requires the use of more than one tape, the end of  
 13 each tape and the beginning of the next shall be announced orally on the video record by the  
 14 operator.

15       14. Testimonial evidence objected to shall be recorded as if the objection had been overruled  
 16 and the court shall rule on the objections prior to admitting that portion of the deposition. The party  
 17 raising the objection(s) shall be responsible for preparing a transcript for the court to consider. All  
 18 objections to the evidence presented shall be deemed waived unless made during the deposition.

19       15. The party offering the deposition into evidence at trial shall be responsible for providing  
 20 the court with a transcript of the portions so offered. The transcript will be used in lieu of  
 21 contemporaneous transcription by the court reporter.

22       16. Copies of all exhibits utilized during the videotaped deposition shall be attached to the  
 23 videotaped record.

24       17. At the conclusion of a deposition, the Government and defendant will advise the material  
 25 witnesses' attorneys if they intend to object to the release of the material witnesses. If the parties do  
 26 not object to the release of material witnesses, the Government will immediately approve the  
 27 material witnesses' release order. The Government will provide the witnesses with subpoenas for the  
 28 trial date and a travel fund advance letter.

1       18. If either party objects to the release of the material witnesses, the objecting party must  
 2 request in writing a hearing on the issue before the District Court within four business days after the  
 3 deposition has concluded. At the hearing, the objecting party must be prepared to show why live  
 4 witness testimony is vital to its case. If, after the hearing, the Court decides to release the material  
 5 witness(es), the material witness attorney should file the witnesses' release order immediately.  
 6 Again, the Government must serve the material witnesses with trial subpoenas and a travel fund  
 7 advance letter before the material witnesses are released from custody.

8       19. The audio tape shall be turned over to the notary at the conclusion of the deposition along  
 9 with a certificate signed by the audio-tape operator attesting that it is an accurate and complete  
 10 record of the deposition.

11      20. The notary shall file this original tape, along with the certification, with the court in a  
 12 sealed envelope marked with the caption of the case, the names of the witnesses and the date of the  
 13 deposition.

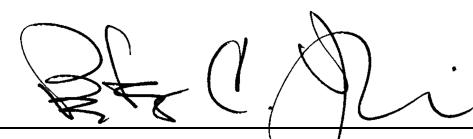
14      21. Upon request by either party, the videotape operator shall provide a copy of the  
 15 videotaped deposition to the requesting party at the requesting party's expense. After preparing the  
 16 requested copies, if any, the videotape operator shall turn the original videotape over to the notary  
 17 along with a certificate signed by the videotape operator attesting that the videotape is an accurate  
 18 and complete record of the recorded deposition.

19      22. The notary shall file the original videotape, along with any exhibits offered during the  
 20 deposition, with the Court in a sealed envelope marked with the caption of the case, the name of the  
 21 witness and the date of the deposition. To that envelope, the notary shall attach the sworn statement  
 22 that the videotape is an accurate and complete record of the recorded deposition.

23      23. Unless waived by the parties, the notary must give prompt notice to all parties of the  
 24 filing of the videotaped record of the deposition with the Court pursuant to Fed.R.Civ.P.30 (f) (3).

25 IT IS SO ORDERED.

26 DATED:December 19,2008



HON. PETER C. LEWIS  
UNITED STATES MAGISTRATE JUDGE